

**REMARKS**

**Summary of the Examiner's Answer**

The following rejections are new in the Examiner's Answer:

1. The rejection of claims 1-7 under 35 U.S.C. § 101 as allegedly being directed toward only logic.

2. The rejection of claims 8-16 under 35 U.S.C. § 101 as allegedly failing to (i) be tied to a particular machine or (ii) transform underlying subject matter to a different state or thing.

The following rejections are maintained in the Examiner's Answer:

3. The rejection of claims 1, 3-15, 17 and 19-22 under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,490,350 to McDuff et al. (hereinafter "MCDUFF").

4. The rejection of claims 2, 16, and 18 under 35 U.S.C. 103(a) as being unpatentable over MCDUFF in view of U.S. Pat. Appl. Pub. No. 2001/0032120 to Stuart et al. (hereinafter "STUART").

5. The provisional rejection of claims 1-22 on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 7-8, 10, 12-16, 21-23, and 25-30 of copending U.S. Application No. 11/314,045 (now U.S. Pat. No. 7,369,654).

**Response to Examiner's Answer**

Upon entry of the present paper, claims 1-22 (i.e., all pending claims) will have been cancelled without prejudice or disclaimer of the subject matter thereof and claims

23-44 will have been added. The herein-contained amendments should not be considered an indication of Applicant's acquiescence as to the propriety of the outstanding rejection. Rather, Applicant has cancelled claims 1-22 and added claims 23-44 in order to advance prosecution and obtain early allowance of the claims in the present application.

Thus, claims 23-44 are pending in the present application, with claims 23, 31, and 39 being in independent form. The cancellation of claims 1-22 renders moot each of the previous rejections. Nevertheless, Applicant traverses each of the previous rejections insofar as any of claims 23-44 recites combinations of features similar or identical to the combinations of features previously recited in cancelled claims 1-22. Applicant addresses the rejections provided within the Examiner's Answer below and respectfully requests reconsideration and withdrawal of the outstanding rejections pending in the present application together with an indication of the allowability of claims 23-44 (i.e., all pending claims) in the next Official communication. Such action is respectfully requested and is believed to be appropriate.

**Double Patenting Rejection**

Claims 1-22 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 7-8, 10, 12-16, 21-23, and 25-30 of copending U.S. Application No. 11/314,045 (now U.S. Pat. No. 7,369,654).

Applicant again respectfully requests that this rejection be held in abeyance until claims of the present application are otherwise found to be in condition for allowance such that Applicant can then decide whether it is necessary to file a Terminal Disclaimer for such claims found to be in condition for allowance.

**35 U.S.C. § 101 Claim Rejections**

Claims 1-7 and 8-16 are newly rejected under 35 U.S.C. § 101 as allegedly being drawn to unpatentable subject matter.

By the present paper, without agreeing to the propriety of the rejections under 35 U.S.C. § 101 and solely to expedite the patent application process, Applicant has cancelled claims 1-22 and added claims 23-44. In this regard, Applicant submits that the grounds for the rejections under 35 U.S.C. § 101 no longer exist and respectfully requests that the Examiner withdraw the rejections.

**35 U.S.C. § 103 Claim Rejections over MCDUFF and STUART**

Claims 1, 3-15, 17 and 19-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over MCDUFF. Additionally, claims 2, 16, and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over MCDUFF in view of STUART.

Initially, Applicant again notes that claims 1-22 have been cancelled and claims 23-44 have been added by the present paper. With respect to new claims 23-44 Applicant respectfully traverses the above-mentioned rejections under 35 U.S.C. § 103(a). Specifically, with respect to new independent claim 23, MCDUFF fails to disclose or render obvious a workforce management system including at least a processor that generates an operator efficiency parameter of an operator by mathematically integrating a set of switching statistics of the operator and a set of work statistics of the operator.

To the contrary, as previously asserted, MCDUFF generally discloses a computerized monitoring system for monitoring telephony resources in a call center wherein the system gathers and displays status information and statistics regarding the calling activity of agents within the call center (MCDUFF, col. 1, lines 35-38).

Specifically, MCDUFF discloses a telecommunications system 10 including a switching mechanism 16 for routing calls to operators 20 within the telecommunications system 10 (MCDUFF, col. 1, lines 65-68). The telecommunication system 10 includes a computer telephony integration server 30 which extracts raw call data from the switching mechanism 16 into useful statistical data (MCDUFF, col. 3, lines 55-57). A computer telephony integration monitoring server 36 compiles the statistical data that is collected by the computer telephony integration server 30 into data for presentation and management by a monitoring system client 51 (MCDUFF, col. 3, line 65 to col. 4, line 5).

The monitoring system client 51 uses the statistical data gathered by the computer telephony integration monitoring server 36 to generate a graphical user interface which displays two types of information: (i) state change information that indicates a change in the state of an agent which generally is one of unavailable, available, on call, call work, error, or unknown; and (ii) work statistics of an operator including the operator's name, average handling time, average work time, and average talk time (MCDUFF, col. 5, lines 15-67 and col. 3, lines 19-22). According to MCDUFF, the graphical representation of the state change information and the work statistics of an operator enable a supervisor to more efficiently monitor the activity within the telecommunications system 10 (MCDUFF, col. 1, lines 34-43). In other words, MCDUFF simply gathers and displays state change information and work statistics.

With respect to the above, the Examiner's Answer asserts, at page 7, that MCDUFF discloses that the computer telephony integration monitoring server 36 provides an automated way to gather useful statistics, classify the statistical data, and generate reports which are useful for a supervisor or other manager. Thus, the Examiner

determines that it would have been obvious to a person of ordinary skill in the art to conclude that MCDUFF collects and manipulates statistical information and provides reports useful to a supervisor and manager.

In this regard, new independent claim 23 does not merely recite gathering and displaying statistical information in a useful manner. To the contrary, new independent claim 23 recites a processor that generates an operator efficiency parameter of an operator by mathematically integrating a set of switching statistics and a set of work statistics. MCDUFF fails to disclose such a feature, but instead, explicitly discloses displaying the work statistics in a statistics section 392 of a graphical user interface 390, and displaying the state change information in a call center section 394 of the graphical user interface 390 (MCDUFF, col. 11, lines 39-44 and Fig. 13). That is, according to MCDUFF, the work statistics are displayed on one section 392 of the graphical interface, and the state change information is displayed on a second and separate section 394 of the graphical interface. Thus, MCDUFF does not disclose mathematically integrating, or even combining, the work statistics and the state change information.

Moreover, even though MCDUFF never even alludes to an efficiency parameter or integrating the state change information and the work statistics, the Examiner asserts MCDUFF renders obvious generating an operator efficiency parameter by mathematically integrating switching statistics and work statistics. Applicant respectfully disagrees. Merely gathering and displaying data in a report useful to a supervisor cannot be reasonably interpreted to disclose generating an operator efficiency.

Accordingly, for at least the reasons set forth above, MCDUFF cannot be reasonably interpreted to disclose or render obvious the processor, as recited by new

independent claim 23, that generates an operator efficiency parameter by mathematically integrating a set of switching statistics and a set of work statistics. Thus, for at least these reasons, MCDUFF fails to render obvious the workforce management system as recited by new independent claim 23. Furthermore, new independent claims 31 and 39 recite a method and a tangible computer-readable medium, respectively, generally including a similar combination of features. Thus, for at least the reasons discussed *supra*, MCDUFF similarly fails to render obvious these claims.

With respect to STUART, the Examiner's Answer merely relies on STUART to disclose a pay for performance system. Accordingly, even if one attempted to combine MCDUFF and STUART in the manner suggested by the Examiner, one would not arrive at the system, method, or computer-readable medium as recited by independent claims 23, 31, and 39, respectively. Thus, the Examiner is respectfully requested to withdraw the 35 U.S.C. §103 rejections of new independent claims 23, 31, and 39.

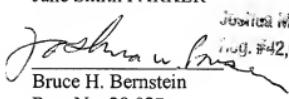
With respect to new dependent claims 24-30, 32-38, and 40-44, these claims are all directly or indirectly dependent from one of allowable independent claims 23, 31, and 39, which are allowable for at least the reasons discussed *supra*. Thus, these dependent claims are also allowable for at least the reasons discussed *supra*. Furthermore, all new dependent claims recite additional features which further define the present invention over MCDUFF AND STUART.

For example, with respect to dependent claims 24, 32, and 40, each of which depend from one of independent claims 23, 31, and 39, the Examiner asserts that MCDUFF renders obvious determining when a generated operator efficiency parameter exceeds a predetermined efficiency parameter. However, MCDUFF does not even

disclose generating an operating efficiency parameter. Thus, MCDUFF cannot be reasonably interpreted to render obvious determining whether a generated operator efficiency parameter exceeds a predetermined efficiency parameter, as generally recited by new dependent claims 24, 32, and 40.

Thus, for at least the reasons discussed *supra*, Applicant respectfully submits that each and every pending claim of the present application (i.e., claims 23-44) meets the requirements for patentability. Accordingly, the Examiner is respectfully requested to withdraw the 35 U.S.C. § 103 rejections and to indicate the allowance of each and every pending claim in the present application.

Respectfully submitted,  
Jane Smith PARKER

  
Bruce H. Bernstein  
Reg. No. 29,027

March 9, 2009  
GREENBLUM & BERNSTEIN, P.L.C.  
1950 Roland Clarke Place  
Reston, VA 20191  
(703) 716-1191